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October 17, 2012

Via CM/ECF

Honorable Michael A. Hammer  
Martin Luther King, Jr. Federal Building & U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07101

*Re: Starland v. Fusari, et al  
Docket No.: 2:10-CV-04930*

Dear Honorable Judge Hammer:

We write on behalf of the Defendants in the above-captioned matter.

On September 19, 2012, we wrote a letter to you pursuant to a telephone conversation we had with your law clerk asking for your advice as to whether or not we should file a Motion to Seal confidential materials cited in our Motion for Summary Judgment. In that letter, a copy of which is enclosed, we asked the Court how it would be possible to seal the Summary Judgment papers before they were filed.

The Court never responded to this communication. As a result, when the Defendants filed the aforementioned papers, they simultaneously moved to Seal.

Previous to that, the Defendants had filed a Motion to Seal with the Court pertaining to an Opposition paper the Defendants filed to a Motion to Sanctions filed by the Plaintiff. That Opposition contained confidential information, the revelation of which possibly constituted breach of an agreement and possibly exposed our clients' to liability. The Court denied the Plaintiff's Motion to Seal her moving papers in that instance; and denied our first attempt to seal as – akin to with the Plaintiff – having failed to meet with the applicable local rule. While we redid our sealing papers to what we believed to be the letter of the Court's requirements for the Motion, we today received notice that the Court has once again denied that Motion.

Which brings the undersigned to the current issue: The Defendants will be filing three opposition papers to the Plaintiff's three Motions for Summary Judgment. Therein, the

Defendants cite to deposition testimony from a third party that has been marked "CONFIDENTIAL" and from whom the Defendants have yet to receive waiver of such confidentiality. The Defendants also cite at least one document marked "CONFIDENTIAL" that might arguably run afoul of the certain agreement referenced above.

Since it appears that the Court is unlikely or unwilling to seal papers in this case, the undersigned is hereby kindly requesting that it advise as soon as possible whether moving to seal confidential materials is necessary and/or likely to be granted. Since these papers must be filed October 22, 2012, the Court's advice on this matter within the next few days is appreciated. My office is quite simply unable to discern the Court's standard with regard to such Motions, given the failure of both the Plaintiff and Defendants in their attempts to seal.

Additionally, given the apparent futility of this office once again revising the Motion to Seal the Opposition to the Motion for Sanctions, that the Court has now twice denied, the undersigned kindly asks for insight into whether or not such Motion can realistically be revised to meet with the Court's satisfaction.

Thank you for your kind attention to this matter.

Very Truly Yours,

JAMES C. DEZAO  
JCD/ap

Cc: All parties of record via CM/ECF